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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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GIOVANNI K. KURTZE,

 Petitioner,

 v.

PHILIP J. KOHN, et al.,

 Respondents.

Case No. 2:17-cv-01057-RFB-VCF

ORDER

Giovanni K. Kurtze has submitted what he styled as a 42 U.S.C. § 1983 complaint (ECF No. 1-1). His application to proceed *in forma pauperis* (ECF No. 3) shall be granted.

While Kurtze used this court's civil rights complaint form, his claims—that his defense counsel his state-court criminal case were ineffective in violation of his Sixth and Eighth Amendment rights—sound in federal habeas corpus. Kurtze's complaint shall be dismissed with leave to file an amended habeas corpus petition on the court's § 2254 habeas form.

The court notes that the remedy Kurtze seeks is monetary damages. However, the remedy in habeas corpus is immediate or speedier release from confinement, not monetary damages. § 2254(a); *see also Skinner v. Switzer*, 562 U.S. 521, 525 (2011); *Heck v. Humphrey*, 512 U.S. 477, 487 (1994).

The court also notes that a habeas petitioner must name as a respondent the state official who has custody of the petitioner, usually the warden of the prison or sheriff if the petitioner is in county detention. Habeas Rule 2(a).

1 Kurtze has leave to file an amended petition, if any, on the court's form. LSR 3-
2 1. Kurtze shall name his custodian as a respondent, clearly set forth each habeas
3 ground and briefly set forth the factual basis for each ground.

4 **IT IS THEREFORE ORDERED** that the petitioner's application to proceed *in*
5 *forma pauperis* (ECF No. 3) is **GRANTED**.

6 **IT IS FURTHER ORDERED** that the Clerk shall detach and file the
7 complaint/petition (ECF No. 1-1).

8 **IT IS FURTHER ORDERED** that the complaint/petition is **DISMISSED with leave**
9 **to file an amended habeas corpus petition** in conformance with this order. Petitioner
10 shall file his amended petition within **forty-five (45) days** of the date of this order.

11 **IT IS FURTHER ORDERED** that the Clerk **shall send** to petitioner one copy of
12 this court's form § 2254 habeas petition, one copy of the information and instructions for
13 filing a § 2254 habeas petition, and one copy of the papers petitioner has filed in this
14 action.

15 **IT IS FURTHER ORDERED** that petitioner is expressly advised that failure to file
16 an amended petition in conformance with this order shall result in the dismissal of this
17 action.

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21 DATED: 19th day of June, 2018.

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24 RICHARD F. BOULWARE, II
25 UNITED STATES DISTRICT JUDGE
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